

(h) *Decisions*—(1) *Proposed findings of fact and conclusions of law.* The judge will allow each party to file with the judge proposed findings of fact, and in appropriate cases conclusions of law, together with a supporting brief expressing the reasons for such proposals. Such proposals and briefs must be filed within ten days after the hearing or within such additional time as the judge may allow. Such proposals and briefs must refer to all portions of the record and to all authorities relied upon in support of each proposal. Reply briefs must be submitted within ten days after receipt of the proposed findings and conclusions to which they respond, unless the judge allows additional time.

(2) *Recommended decision.* (i) As soon as practicable, but normally not later than 90 days after the conclusion of the formal hearing, the judge will evaluate the record of the formal hearing and prepare and file a recommended decision with the Administrator. The decision will contain findings of fact, when appropriate, conclusions regarding all material issues of law, and a recommendation as to the appropriate action to be taken by the Administrator. The judge will serve a copy of the decision on each party and upon the Administrator.

(ii) Within thirty days after the date the recommended decision is served, any party may file with the Administrator exceptions to the recommended decision. The exceptions must refer to all portions of the record and to all authorities relied on in support of the exceptions.

(3) *Final decision.* (i) As soon as practicable, but normally not later than 60 days after receipt of the recommended decision, the Administrator will issue a final decision. The final decision will include findings of fact and conclusions regarding material issues of law or discretion, as well as reasons therefor. The final decision may accept or reject all or part of the recommended decision. The Administrator shall assure that the record shows the ruling on each exception presented.

(ii) With respect to hearings held pursuant to section 116(b), the Administrator may defer announcement of his findings of fact until the time he takes

final action with respect to any action described in section 116(a).

(iii) The Administrator will base the final decision upon the record already made except that the Administrator may issue orders:

(A) Specifying the filing of supplemental briefs; or

(B) Remanding the matter to the judge for the receipt of further evidence, or otherwise assisting in the termination of the matter.

(i) *Filing and service of documents.* (1) Whenever the regulations in this subpart or an order issued hereunder require a document to be filed within a certain period of time, such document will be considered filed as of the date of the postmark, if mailed, or (if not mailed) as of the date actually delivered to the office where filing is required. Time periods will begin to run on the day following the date of the document, paper, or event which begins at the time period.

(2) All submissions must be signed by the person making the submission, or by the person's attorney or other authorized agent or representative.

(3) Service of a document must be made by delivering or mailing a copy of the document to the known address of the person being served.

(4) Whenever the regulations in this subpart require service of a document, such service may effectively be made on the agent for the service of process or on the attorney for the person to be served.

(5) Refusal of service of a document by the person, his agent, or attorney will be deemed effective service of the document as of the date of such refusal.

(6) A certificate of the person serving the document by personal delivery or by mailing, setting forth the manner of the service, will be proof of the service.

## Subpart J—Enforcement

### § 971.1000 General.

(a) *Purpose and scope.* (1) Section 302 of the Act authorizes the Administrator to assess a civil penalty, in an amount not to exceed \$25,000 for each violation, against any person found to have committed an act prohibited by section 301 of the Act. Each day of a

## §971.1001

## 15 CFR Ch. IX (1–1–01 Edition)

continuing violation is a separate offense.

(2) Section 106 of the Act describes the circumstances under which the Administrator may suspend or revoke a license or permit, or suspend or modify activities under a license or permit, in addition to or in lieu of imposing of a civil penalty, or in addition to imposing a fine.

(3) Section 306 of the Act makes provisions of the customs laws relating to, among other things, the remission or mitigation of forfeitures, applicable to forfeitures of vessels and hard mineral resources. The Administrator is authorized to entertain petitions for administrative settlement of property seizures made under the Act which would otherwise proceed to judicial forfeiture.

(4) Section 114 of the Act authorizes the Administrator to place observers on vessels used by a licensee or permittee under the Act to monitor compliance and environmental effects of activities under the license or permit.

(5) Section 117 of the Act describes the circumstances under which a person may bring a civil action against an alleged violator or against the Administrator for failure to perform a nondiscretionary duty, and directs the Administrator to issue regulations governing procedures prerequisite to such a civil action.

(6) The regulations in this subpart provide uniform rules and procedures for the assessment of civil penalties (§§971.1001–971.1002), and license and permit sanctions (§971.1003); the remission or mitigation of forfeitures (§971.1004); observers (§971.1005); protection of certain information related to enforcement (§971.1006); and procedures requiring persons planning to bring a civil action under section 117 of the Act to give advance notice (§971.1007).

(b) *Filing and service of documents.* (1) Except as otherwise provided by this subpart, filing and service of documents required by this subpart will be in accordance with §971.901(i). The method for computing time periods set forth in §971.901(i) also applies to any action or event, such as payment of a civil penalty, required by this subpart to take place within a specified period of time.

(2) If an oral or written request is made to the Administrator within ten days after the expiration of a time period established in this subpart for the required filing of documents, the Administrator may permit a late filing if the Administrator finds reasonable grounds for an inability or failure to file within the time periods. All extensions will be in writing. Except as provided by this paragraph, by 15 CFR 904.102 or by order of an administrative law judge, no requests for an extension of time may be granted.

### §971.1001 Assessment procedure.

Subpart B of 15 CFR part 904 governs the procedures for assessing a civil penalty under the Act, and the rights of any person against whom a civil penalty is assessed.

### §971.1002 Hearing and appeal procedures.

(a) *Beginning of hearing procedures.* Following receipt of a written request for a hearing timely filed under 15 CFR 904.102, the Administrator will begin procedures under this section by forwarding the request, a copy of the NOVA, and any response thereto to the Department of Commerce, Office of Administrative Law Judges.

(b) Subpart C of 15 CFR part 904 governs the hearing and appeal procedures for civil penalties assessed under the Act.

### §971.1003 License and permit sanctions.

(a) *Application of this section.* This section governs the suspension or revocation of any license or permit issued under the Act, or the suspension or modification of any particular activity or activities under a license or permit, which suspension, revocation or modification is undertaken in addition to, or in lieu of, imposing a civil penalty under this subpart, or in addition to imposing a fine.

(b) *Basis for sanctions.* The Administrator may act under this section with respect to a license or permit issued under the Act, or any particular activity or activities under such a license or permit, if the licensee or permittee substantially fails to comply with any provision of the Act, any regulation or